

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

LOUIS SHEPTIN,)	
)	
Plaintiff,)	
vs.)	NO. CIV-08-0032-HE
)	
SAINT ANTHONY HOSPITAL, et al.,)	
)	
Defendants.)	

ORDER

The court previously granted plaintiff Louis Sheptin's request for an appointed attorney and, on March 14, 2008, referred the case to Magistrate Judge Bana Roberts for the appointment of counsel. The magistrate judge has issued a Report and Recommendation stating that, despite an exhaustive and good faith effort, she has been unable to locate an attorney willing to represent the plaintiff,¹ and lacks the authority to require counsel to take the case. She recommends that the order for appointment of counsel be vacated, as well as the order allowing the plaintiff to proceed *in forma pauperis*. The plaintiff has filed an objection to the Report and Recommendation. He states in his response that he was released from federal custody on July 30, 2008, is indigent and has been placed, because of ill health, in a nursing home.

As the plaintiff is not entitled by statute or other authority to court-appointed counsel, *see* 28 U.S.C. § 1915(e), and the court lacks the power to appoint an attorney over his or her objection, Loftin v. Dalessandri, 2001 WL 20731, at *5 (10th Cir. Jan. 9, 2001)

¹The magistrate judge noted that a principal concern to potential Oklahoma counsel was the fact that the plaintiff was incarcerated in Illinois.


(unpublished),² the court **VACATES** its March 14, 2008, order [Doc #20] granting the plaintiff's motion for court-appointed counsel. This does not, however, preclude the plaintiff from proceeding with private counsel.

Due to the unusual circumstances of this case, including plaintiff's apparent current status as a non-prisoner, the court will not revoke the plaintiff's *ifp* status. The plaintiff's prior motion [Doc. #40] asking that his "Emergency Supplement to Complaint" [Doc. #8] be served on the defendants is deemed a motion to amend and is **GRANTED**. The defendants are directed to file amended answers within **thirty (30) days**.

The court previously stayed discovery pending disposition of the magistrate judge's Report and Recommendation. The court continues the stay until **October 24, 2008**, to allow the plaintiff time to retain private counsel or determine if he will proceed *pro se*. After that date the stay will be lifted and the case, including discovery, will proceed. The plaintiff is **GRANTED** until **November 21, 2008**, to respond to defendants' discovery requests.

IT IS SO ORDERED.

Dated this 22nd day of August, 2008.



JOE HEATON
UNITED STATES DISTRICT JUDGE

²Loftin is cited for persuasive value only under 10th Cir. R. 32.1.